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| APPLICATION NO.                                                           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|---------------------------------------------------------------------------|-------------|----------------------|--------------------------|------------------|
| 10/775,261                                                                | 02/09/2004  | Bradley C. Aldrich   | 10559/P8090C187002/Intel | 1237             |
| 20985                                                                     | 7590        | 03/07/2005           | EXAMINER                 |                  |
| FISH & RICHARDSON, PC<br>12390 EL CAMINO REAL<br>SAN DIEGO, CA 92130-2081 |             |                      | CHOOBIN, BARRY           |                  |
|                                                                           |             |                      | ART UNIT                 | PAPER NUMBER     |
|                                                                           |             |                      | 2625                     |                  |

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/775,261

**Applicant(s)**

ALDRICH ET AL.

**Examiner**

Barry Choobin

**Art Unit**

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 27-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                             |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/04</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### *Specification*

#### Content of Specification

The Examiner suggests inclusion of the following to the specification in order to be compatible with the U.S. customary practice.

Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on February 9, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,700,996. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims in instant application represent a broad version of claims in the U.S. Patent 6,700,996 (hereafter, 996).

Claim 1 of instant application corresponds to claim 1 of, 996.

Claim 2 of instant application corresponds to claim 1 lines 19-21 of, 996.

Claim 3 of instant application corresponds to claim 2 of, 996.

Claim 4 of instant application corresponds to claim 3 of, 996.

Claim 5 of instant application corresponds to claim 4 of, 996.

Claim 6 of instant application corresponds to claim 5 of, 996.

Claim 7 of instant application corresponds to claim 6 of, 996.

Claim 8 of instant application corresponds to claim 7 of, 996.

Claim 9 of instant application corresponds to claim 8 of, 996.

Claim 10 of instant application corresponds to claim 9 of, 996.

Claim 11 of instant application corresponds to claim 11 of, 996.

Claim 12 of instant application corresponds to claim 16 of, 996.

Claim 13 of instant application corresponds to claim 17 of, 996.

Claim 14 of instant application corresponds to claim 18 of, 996.

Claim 15 of instant application corresponds to claim 19 of, 996.

Claim 16 of instant application corresponds to claim 21 of, 996.

Claim 17 of instant application corresponds to claim 20 of, 996.

Claim 18 of instant application corresponds to claim 22 of, 996.

Claim 19 of instant application corresponds to claim 22 of, 996.

Claim 20 of instant application corresponds to claim 22 of, 996.

Claim 21 of instant application corresponds to claim 23 of, 996.

Claim 22 of instant application corresponds to claim 24 of, 996.

Claim 23 of instant application corresponds to claim 26 of, 996.

Claim 24 of instant application corresponds to claim 25 of, 996.

Claim 25 of instant application corresponds to claims 10 and 13 of, 996

Claim 26 of instant application corresponds to claim 15 of, 996.

***Allowable Subject Matter***

4. Claims 27-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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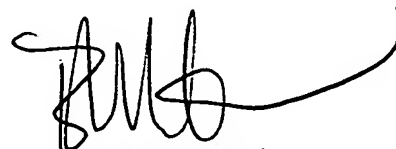
**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 703-306-5787. The examiner can normally be reached on M-F 7:30 AM to 18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barry Choobin  
March 2, 2005



**BHAVESH M. MEHTA**  
**SUPERVISORY PATENT EXAMINER**  
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